

REMARKS

Applicants submit this Response in reply to the Office Action mailed March 24, 2005.

Claims 1-69 are pending in this application. Claims 1, 26, and 52 are independent claims.

On pages 2-3 of the Office Action, claims 1-3, 7, 9, 15, 17-19, 21-28, 32, 34, 35, 40, 42, 43, and 47-51 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 37-40 and 43-44 of copending Application No. 10/859,982. While Applicants do not necessarily agree that the rejection is proper, solely in the interests of expediting the prosecution of this application, Applicants submit a Terminal Disclaimer herewith to overcome the provisional double patenting rejection. The submission of the Terminal Disclaimer in no way manifests an admission by Applicants as to the propriety of the provisional double patenting rejection set forth in the Office Action. Nor do Applicants subscribe to the various characterizations and assertions regarding the claims in both applications set forth in that provisional double patenting rejection. See M.P.E.P. §804.02 *citing Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991) (“In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection”). Should the need arise at a later date, Applicants reserve the right to present arguments regarding the merits of the provisional double patenting rejection and the nonobviousness of any of application claims 1-3, 7, 9, 15, 17-19, 21-28, 32, 34, 35, 40, 42, 43, and 47-51 over claims 37-40

and 43-44 of copending Application No. 10/859,982. Accordingly, Applicants respectfully request withdrawal of the provisional double patenting rejection.

Applicants further submit that claims 2-25, 27-51, and 53-69 depend from at least one of independent claim 1, 26, and 52, and are therefore allowable for at least the same reasons that respective independent claim 1, 26, and 52 is allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor suggested by prior art, and therefore at least some also are separately patentable.

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In discussing the specification and claims in this Response, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Response and charge
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: June 23, 2005

By: 
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Attachment: Terminal Disclaimer (3 pages).